

Koons Ford of Annapolis, Inc. and John R. Lawrence, Petitioner and District No. 65, United Automobile, Aerospace and Agricultural Implement Workers of America, AFL-CIO. Case 5-RD-1046

September 29, 1992

ORDER DENYING REVIEW

BY MEMBERS DEVANEY, OVIATT, AND
RAUDABAUGH

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel, which has considered the Union's request for review of the Regional Director's supplemental decision (the relevant portion of which is attached). The request for review is denied as it raises no substantial issues warranting review.¹

MEMBER DEVANEY, dissenting.

Contrary to my colleagues, I would direct that the Regional Director receive and consider the Union's evidence in support of its objections. Although it is the Region's usual practice to notify objecting parties of the receipt of their objections and their obligation to present supporting evidence within the 14-day period prescribed by Section 102.69(a) of the Board's Rules, the Region gave no such notification in the instant

¹ For the reasons stated in *Public Storage*, 295 NLRB 1034 (1989), we do not agree with the dissent that the Union's late-tendered evidence should be accepted because the Union failed to receive a courtesy reminder of the due date for submission of that evidence.

case. In addition, the Union, prior to the Region's mailing of the instant supplemental decision, requested that the Region receive and consider its evidence. In these circumstances, I would order that the Regional Director consider the Union's objections on their merits. See my dissent in *Public Storage*, 295 NLRB at 1035.

APPENDIX

On July 13, the Union filed timely objections to conduct affecting the results of the election. Under the provisions of Section 102.69(a) of the Board's Rules and Regulations, objections are due within 7 days after the preparation of the tally of ballots and the objecting party is required to furnish its supporting evidence to the Region within fourteen days after the issuance of the tally of ballots. Thus, the Intervenor was required to submit its supporting evidence by July 21. *Craftmatic Comfort Mfg. Corp.*, 299 NLRB 514 (1990). The undersigned neither granted nor was requested to grant additional time to the Intervenor to tender its supporting evidence. The Board noted in *Star Video Entertainment L.P.*, 290 NLRB 1010, that the time limits set forth in the Rules and Regulations concerning the submission of evidence in support of objections to an election are to be strictly applied. More recently, the Board decided in *Public Storage, Inc.*, 295 NLRB 1034, that it was in error to accept evidence in support of objections received after the time period provided for in the Rules and Regulations, and in the absence of a timely request for an extension previously having been granted.

In light of the Intervenor's failure to submit evidence in support of its objections by July 21, I overrule the Union's Objections in their entirety and issues the following Certification of Results of Election.